

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

|                           |   |                           |
|---------------------------|---|---------------------------|
| United States of America, | ) |                           |
|                           | ) |                           |
| Plaintiff,                | ) | <b>ORDER OF DETENTION</b> |
|                           | ) | <b>PENDING SENTENCING</b> |
| vs.                       | ) |                           |
|                           | ) | Case No.: 4:12-cr-147     |
| Ernie Thomas Counts, Jr., | ) |                           |
|                           | ) |                           |
| Defendant.                | ) |                           |

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The court conducted a hearing on the petition for revocation of defendant's pre-sentence release on May 8, 2013. Assistant United States Attorney Brandi Sasse Russell appeared on the Government's behalf. Assistant Federal Public Defender Heather Mitchell appeared on defendant's behalf.

Defendant did not deny violating the conditions of release as alleged in the petition. Due to defendant's failure to comply with the release conditions while residing with his mother, including his continued drug use, the court **ORDERS** that, defendant be committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility. Defendant shall be afforded a reasonable opportunity for private consultations with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

The court did indicate it would consider placement in a halfway house facility if space could be funded. However, after further consideration, the court has several persons in

defendant's exact same situation with the inability to fund placement for all. Because the court indicated it would consider placement for one or more of the other individuals prior to defendant, because the court deems the other persons more amenable to following direction in a halfway house setting, and given that defendant has entered a plea of guilt and the relatively short period of time to sentencing, the court elects to use its resources elsewhere.

**IT IS SO ORDERED.**

Dated this 8th day of May, 2013.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr., Magistrate Judge  
United States District Court